

The Honorable Alfredo R. Perez
Hearing Date: December 5, 2024
Hearing Time: 9:00 AM CT
Response Date: November 27, 2024

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF TEXAS, HOUSTON DIVISION**

IN RE:

REFRESHING USA, LLC

Debtor¹

§
§
§
§
§
§

Chapter 11

**CASE NO. 24-33919
(Jointly Administered)**

**CREDITOR JAMES GROUP'S MOTION FOR RELIEF FROM STAY AS
TO CERTAIN WATER MACHINES**

If you object to the relief requested, you must respond in writing. Unless otherwise directed by the Court, you must file your response electronically at <https://ecf.txsb.uscourts.gov/> within twenty-one days from the date this motion was filed. If you do not have electronic filing privileges, you must file a written objection that is actually received by the clerk within twenty-one days from

¹ 1 Debtors and debtors in possession these Chapter 11 cases ("Bankruptcy Case(s)"), along with the last four digits of their respective Employer Identification Numbers, are as follows: Refreshing USA, LLC (85-3358945) ("Refreshing"), Case No. 24-33919; Water Station Management LLC (81-1202716) ("Water Station"), Case No. 24-33924; and Creative Technologies, LLC (46- 2581888) ("Creative" and, together with Refreshing and Water Station, "Debtors"), Case No. 24- 33934. Debtors' mailing address is: 2732 Grand Ave., Ste. 122, Everett, WA 98201

MOTION FOR RELIEF FROM STAY REGARDING
CERTAIN WATER MACHINES
NO. 24-33924-ARP, NO. 24-33919-ARP,
NO. 24-33934-ARP (1)

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1 the date this motion was filed. Otherwise, the Court may treat the pleading as
2 unopposed and grant the relief requested.

3 A hearing will be conducted on this matter on December 5, 2024, at 9:00 am
4 in Courtroom 400, courthouse address 515 Rusk St., Houston, TX 77002. You
5 may participate in the hearing either in person or by an audio and video
6 connection. Audio communication will be by use of the Court's dial-in facility.
7 You may access the facility at 832-917-1510. Once connected, you will be asked
8 to enter the conference room number. Judge 's conference room number is
9 282694. Video communication will be by use of the GoToMeeting platform.
Connect via the free GoToMeeting application or click the link on Judge 's
home page. The meeting code is "Judge ". Click the settings icon in the upper
right corner and enter your name under the personal information setting.

11 I. RELIEF REQUESTED

12 NOW COMES James Group International, LLC, a Nevada limited liability company
13 ("James Group"), party in interest and creditor to Debtors in the above-titled action, by and
14 through undersigned counsel, moves for an order of the Court granting relief from the automatic
15 stay pursuant to 11 U.S.C. § 362(d)(1) and Federal Rule of Bankruptcy Procedure ("FRBP")
16 4001(a)(1), solely to record and perfect its lien with respect to a secured debt in water vending
17 machines. James Group is seeking to record its lien for protection from future encumbrances and
18 to file a valid Proof of Claim as a secured creditor.

19 Counsel has conferred with counsel for Debtors and the parties have been unable to reach
20 an agreement as to James Group's requested relief. See *Declaration of Martin Kreshon*.

22 II. FACTUAL BACKGROUND

23 James Group entered into a Service and Management Agreement with Water Station
24 Management, LLC ("WSM") on November 12, 2019 (the "*Service Agreement*"). Pursuant to the
25 terms of the Service Agreement, James Group provided WSM with a loan of \$4,100,000, to be
26 collateralized by water refilling/service machines with matching serial numbers. See *Declaration*
27 *of Paul Barrera*, Ex. A. WSM defaulted on its obligations.

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1 *Extenuating Circumstances for Lack of Perfection*

2 At the time the loan was made, James Group was under the control of Ronald James
3 (deceased) (“**Ronald**”). Ronald was diagnosed with Parkinson’s disease in 2016. Over time, he
4 displayed signs of dementia related to his then-diagnosed Parkinson’s, his decision making
5 became increasingly impaired by occasional staring spells and "hallucinations". He would at
6 times fall asleep at his desk. Not long after the contract with WSM was signed, Ronald James
7 required assistance with a wheelchair. By early-2024, Ronald was diagnosed with two (2) large
8 glioblastomas in his brain. His providers agreed that the locations of the tumors could have
9 created symptoms similar to his initial Parkinson’s diagnosis. Ronald James died April 20th,
10 2024. From 2019 onwards, Ronald lacked the capability to properly pursue the UCC filings due
11 to diminished cognitive faculties. See *Declaration of Donald James*.

12 *Basis for Filing*

13
14 The record suggests that Ryan Wear, former manager of Debtors, disregarded
15 corporate formalities and moved investor money from one entity to another in “random fashion”,
16 “sweeping” funds so that the “ledger balance [was] near zero at the end of each month” See
17 *Declaration of Paul Barrera*, Ex. B & Ex. C. As such, James Group has good faith reason to
18 believe that at least some of the proceeds provided to WSM and the secured property may have
19 ended up in Debtors Creative Technologies, LLC and Refreshing USA, LLC.

20 Having conducted an extensive review of security filings, James Group is unaware of
21 any other creditor claiming security in the machines at issue. To properly file a Proof of Claim in
22 the above-titled case as a secured creditor, James Group must file a UCC statement.

23 **III. ARGUMENTS**

24 *James Group is requesting to record its lien, no more*

25 Pursuant to 11 U.S.C. § 362(d)(1), the automatic stay may be modified or terminated
26 for cause, including lack of adequate protection in the property. The power to modify or vacate
27 the automatic stay is exercised by a bankruptcy court according to the particular circumstances of
28 the case and is to be guided by considerations that under the law make for ascertainment of what

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1 is just to the claimants, the Debtor, and the estate. *Foust v. Munson Steamship Lines*, 299 U.S.
2 77 (1936); *In re Towner Petroleum Co.*, 48 B.R. 182 (Bankr. Okl.1985); *In re Mego Inter.,*
3 *Inc.*, 28 B. R. 324 (Bankr. S.D.N.Y. 1983). Courts are to exercise "judgment which must weigh
4 competing interests and maintain an even balance." *Landis v. North American Company*, 299
5 U.S. 248 (1936). Cause is not defined in the Bankruptcy Code and must be determined on a case-
6 by-case basis based on an examination of the totality of circumstances. *In re Reitnauer*, 152 F.3d
7 341, 343 n.4 (5th Cir. 1998); *In re Mendoza*, 111 F.3d 1264 (5th Cir. 1997).

8 Without relief from the stay to file its lien, James Group lacks the ability to perfect its lien
9 and file a Proof of Claim with this court as a secured creditor. James Group does not seek relief at
10 this time to execute against Debtors' property or any asset subject to Debtors' bankruptcy estates
11 except to file and perfect its lien. James Group would file a separate motion for relief from stay
12 before proceeding with any enforcement.

13 IV. CONCLUSION

14 Good cause exists for this Court to grant James Group limited relief from the automatic
15 stay under 11 U.S.C. § 362(d)(1) to perfect its lien.

16
17 DATED this Wednesday, November 6, 2024.

18 NORTH CITY LAW, PC

19 /s/ Paul A. Barrera

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CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing was served by the Electronic Case Filing System for the United States Bankruptcy Court for the Southern District of Texas on November 6, 2024.

/s/ Paul A. Barrera

Paul A. Barrera, WSBA No. 51990

Attorney for James Group International, LLC

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